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VIA HAND DELIVERY

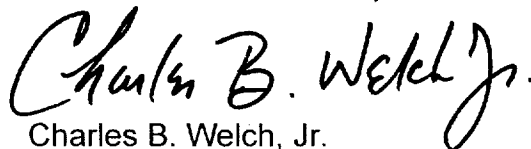
Re: *Docket to Establish Generic Performance Measures, Benchmarks and Enforcement Mechanisms for BellSouth Telecommunications, Inc.*
Docket No. 01-00193

Dear Mr. Waddell:

Please find enclosed the original and thirteen copies of the Joint Petition to Include Service Quality Measures for Special Access Service filed on behalf of Time Warner Telecom of the Mid-South, L.P. and U.S. LEC of Tennessee, L.L.C. in the above-captioned proceeding. I have provided copies to all counsel of record.

Very truly yours,

FARRIS, MATHEWS, BRANAN,
BOBANGO & HELLEN, P.L.C.


Charles B. Welch, Jr.

CBW:lw

Enclosures

cc: Carolyn Marek

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
DOCKET TO ESTABLISH GENERIC)	Docket No. 00-00193
PERFORMANCE MEASUREMENTS,)	
BENCHMARKS AND ENFORCEMENT)	
MECHANISMS FOR BELL SOUTH)	
TELECOMMUNICATIONS, INC.)	

**JOINT PETITION OF TIME WARNER TELECOM OF THE MID-SOUTH, L.P.
AND U.S. LEC OF TENNESSEE, L.L.C. TO INCLUDE SERVICE
QUALITY MEASURES FOR SPECIAL ACCESS SERVICE**

Time Warner Telecom of the Mid-South, L.P. ("Time Warner") and U.S. LEC of Tennessee, L.L.C. file this petition requesting that the provisioning of special access by BellSouth Telecommunications, Inc. ("BellSouth") be included for consideration in this docket as a service subject to service quality measurement, and in support of the petition states as follows:

I. INTRODUCTION

Petitioners request that the metrics adopted by the Authority in this proceeding include measurement of the critical elements of the ordering, provisioning, installation and maintenance of functionalities associated with special access services. Special access services are purchased out of BellSouth's federal or state tariff. For example, BellSouth offers high capacity circuits, such as a DS1 and DS3 service, as federal tariff. These services are functionally equivalent to the unbundled network elements ("UNEs") and resold high capacity services that BellSouth offers via its interconnection agreements or resale tariffs. Special Access DS1 and DS3 services, UNE DS1 and DS3 and/or resale DS1 and DS3 services offer a combination of functionality equivalent, dedicated transport

and loop network elements used to deliver a mixture of intrastate and interstate traffic to CLECs and end user customers.

Timely provisioning of special access services is critical to the development of robust local competition. These services provide end users with high capacity bandwidth and are designed for and utilized by BellSouth's competitors to serve large and medium size business customers. Since competing carriers do not have an ubiquitous network comparable to that of BellSouth, CLECs must utilize a combination of their own network assets augmented by high capacity circuits from BellSouth to complete the link to the customer. Competitors rely upon the special access services to complete the services to their end users, instead of duplicating BellSouth's existing network with all of the inefficiencies that would entail. Therefore, the use of high capacity circuits directly supports intrastate service competition.

Petitioners seek to require BellSouth to measure and report its provisioning of special access services consistent with the manner it reports its provisioning of equivalent unbundled network elements and resell services. Receiving quality services from the ILEC, whether the CLEC orders that service out of the tariff or interconnection agreement, is essential in that BellSouth is the dominant provider of special access service in Tennessee. BellSouth is the only economical alternative for providing the last mile facility to a competitor's end user customer. Hence, CLECs are just as dependent on the timely and proper provisioning of BellSouth special access services as are CLECs that purchase equivalent high capacity services on an unbundled or resell basis.

II. THE IMPORTANCE OF INCLUDING SPECIAL ACCESS SERVICES IN PERFORMANCE MEASURES

BellSouth has different ordering arrangements that competitors must use depending on whether high capacity circuits are ordered out of a tariff or an interconnection agreement. The processes and procedures associated with ordering Special Access have been used for many years and are well developed, but the processes for ordering unbundled or resold services are still relatively new and competitors often experience significant delays in provisioning. Hence, Petitioners and other CLECs often utilize the special access ordering, Access Service Request (ASR), process to avoid the inherent pitfalls associated with UNE and resell ordering, and pay a premium over the prices paid for equivalent unbundled services.

Delays in provisioning are particularly harmful in this market segment. Large business customers do not tolerate unanticipated delays or problems in obtaining service. If a CLEC promises to provide a customer service on a certain date and the date is not met because of BellSouth problems, the CLEC's reputation suffers irreparable harm. Receiving quality service from the ILEC, whether the CLEC orders that service out of a tariff or an interconnection agreement, is essential to the development of robust competition.

Unfortunately, BellSouth's current special access reporting data is entirely insufficient. BellSouth makes available very limited information that purportedly captures its performance of providing special access services. For example, currently there is no information reported by BellSouth that captures operating support systems availability; billing performance; or telephone answer and hold time performance of the access ordering and maintenance centers.

If special access is not included in the BellSouth metrics, CLECs that use special access services will be placed at a competitive disadvantage relative to CLECs that purchase equivalent high capacity services on a resold or unbundled basis. CLECs that purchase high capacity services on a resold or unbundled basis will have more performance data, metrics and benchmarks to measure whether they are receiving quality service, and if BellSouth's performance is below the standards, those CLECs will have remedies and penalties to compensate them for that poor service. This is not the case for CLECs purchasing special access service from BellSouth's tariff. Therefore, BellSouth will be encouraged to ensure that it complies with the metrics for resold and unbundled high capacity services, but will not have the same incentive for equivalent services purchased by CLECs utilizing BellSouth's tariff-based special access services. CLECs should not be penalized based upon their mode of entry.

Petitioners have made substantial investments in plant and equipment to enable delivery of a high quality and reliable product to their end user customers. To exclude special access high capacity services from full range of mandatory Section 271 performance reporting requirements effectively penalizes CLECs because of their business decision to purchase high capacity services out of a tariff instead of purchasing UNEs.

Special access services should have the same range of performance metrics applied because the services offered are functionally equivalent, whether offered under a tariff or under an interconnection agreement. First, any distinction between the special access services and UNEs is premised entirely on BellSouth's unilateral regulatory decision whether to offer a particular service through its state or federal tariff, or pursuant to an interconnection agreement. Without imposing the same metrics on equivalent

special access services, BellSouth could simply avoid metrics and remedies by assigning a particular service to the most favorable regulatory classification.

Second, BellSouth cannot identify any actual difference between equivalent high capacity special access facilities, unbundled facilities, and resold facilities that would justify different treatment. Exclusion of high capacity special access services that are used to deliver mixed traffic (intrastate and interstate) amounts to disparate treatment of CLECs choosing this mode of market entry where no apparent, or reasonable, distinction has been made.

Moreover, inclusion of special access services ordered from tariffs as part of Section 271 appears to be an overlooked area of local market competition that requires immediate attention to protect against post Section 271 backsliding. Other state commissions, such as Minnesota and New York, have taken steps to ensure that local competition develops by beginning to review the need for service standards applicable to special access services. For example, due to the large number of systemic problems CLECs have experienced with Verizon's delivery of tariff-based special services in the state of New York, CLECs asked the New York Commission to open an investigation into Verizon's performance in this area. *Proceeding to Investigate Methods to Improve and Maintain High Quality Special Services by Verizon New York, Inc., and Proceeding on Motion of the Commission to Investigate Performance Based Incentive Regulatory Plans for New York Telephone Company*, NY PSC Consolidated Case Numbers 00-C-2051, 92-C0665 (Order Instituting Proceeding, November 24, 2000), N.Y. PUC LEXIS 948. The New York Commission found:

"Verizon continues to be the dominant carrier for special services and

other carriers rely heavily on Verizon to provision services for their customers. Therefore, both retail and wholesale aspects of special services deserve careful attention to ensure adequate service. " (Id., P.2.)

The Commission specifically ordered Verizon to file comments discussing the expansion of the service guidelines to include metrics for ordering and provisioning of special services and incentives to meet new metrics for special services. (Id. at P.4-5) The staff noted that the Commission had already established similar metrics for unbundled network elements and those should be readily adaptable to special services. (Id. at first attachment, P.33) Similarly, the metrics to be developed in Tennessee for unbundled network elements are readily adaptable to special access services, and should be applied to this proceeding.

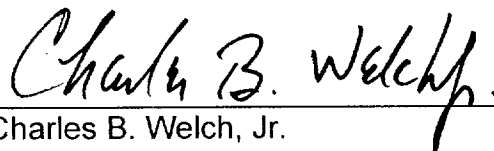
The Minnesota Commission recently opened an investigation into the development of service standards for special access services. *In the Matter of the Complaint of AT&T Communications of the Mid-West, Inc. Against U.S. Western Communications, Inc. Regarding Access Service*, Minn. PSC Docket No. P-421/C-99-1183 (Order Funding Jurisdiction, Rejecting Claims for Relief, and Opening Investigation, August 15, 2000), 200 Minn. PUC LEXIS 53. The Minnesota Commission rejected the argument that a state commission does not have jurisdiction over services that are offered under a federal tariff. The Minnesota Commission acknowledged that it has the jurisdictional authority to regulate the quality of intrastate access services, whether provided under state or federal tariffs because the facilities used to deliver services are "mixed use" facilities. The Tennessee Regulatory Authority has jurisdiction to regulate the quality of service of BellSouth when those services are used to provide intrastate service.

CONCLUSION

The timely and functionally proper provisioning of special access services is essential to the development of the local exchange market and consistent with the goals of the Telecommunications Act of 1996. The same types of metrics applied to high capacity UNE circuits should be applied to special access services. Applying the same metrics to these services would prevent BellSouth from improperly shielding aspects of its business from competition and from fostering discrimination in the marketplace relative to business accessing high capacity circuits from BellSouth's tariffs, or through interconnection agreements.

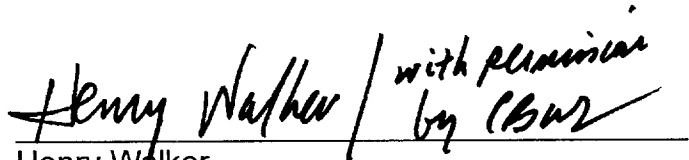
Respectfully submitted,

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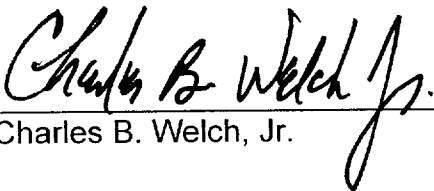
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by placing same in U.S. Mail, postage prepaid, this the 30th day of April, 2001, upon the following:

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